UNITED
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Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1998/NGO/15
20 July 1998

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Fiftieth session
Item 2 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES; REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Written statement submitted by the International Federation of Human Rights Leagues, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 July 1998]

1. The grave human rights abuses committed in Turkey over the last six months include the attack on 12 May 1998 which nearly cost the life of Akin Birdal, President of the Turkish Human Rights Association (IHD) and Vice-President of the International Federation of Human Rights Leagues (FIDH); the imprisonment on 16 June 1998 of the Turkish journalist Ragip Duran, a correspondent for the French newspaper Libération and the British Broadcasting Corporation (BBC), who was sentenced to 10 months in prison for an article in the pro-Kurdish press; the arrest and incarceration, in May 1998, of the blind lawyer Esber Yagmurdereli, who received a 22-year prison sentence for a crime of opinion; the imprisonment in January 1998, for the same offence, of the pro-Kurdish journalist Haluk Gerger; the prohibition of the Refah Party at the beginning of 1998 and the banning of all political activities of its leaders as well as the conviction, a few months ago, of the Islamist mayor of Istanbul for a crime of opinion; the closure, in June 1998, of a rehabilitation centre for torture victims, by decision of the Governor of Diyarbakir, four days after the inauguration of the new centre, which had been opened, like others, on the initiative of the Turkish Human Rights Foundation, in the presence of numerous representatives of the diplomatic corps.

2. Hopes had been high in 1997 following the appointment of Prime Minister Mesut Yilmaz, who in recognition of the progress that Turkey needed to make on human rights had formally undertaken to give priority to the implementation of a package of reforms. His first step had been to set up a parliamentary commission to investigate the Susurluk affair, which since November 1996 had been stirring the press and public opinion by revealing links between the authorities, the mafia and the security services. The commission of inquiry submitted its report to the Prime Minister in early 1998 but no concrete action has since been taken. Furthermore, while on the eve of the Luxembourg Summit, a measure of carefully dosed clemency had permitted the release of some journalists, 67 were still incarcerated because of their writings in March 1998 and others also ended in prison in the months that followed.

3. The isolation of Turkey at the Luxembourg Summit no doubt bears some relation to this crackdown by the Turkish authorities: must the statement by Ankara that it no longer regards Europe as a priority be seen as a door firmly closed to any improvement of the human rights situation and in respect for the European Convention on Human Rights that Turkey has ratified? The events in the first part of the year suggest that this might be the case; and while one should be wary of making a definitive judgement, they call, at least, for redoubled vigilance and, at best, considering their gravity, for a firm warning to Turkey, which cannot subordinate its respect for conventions it has ratified to the satisfaction of its political ambitions.

Infringements of freedom of opinion

4. Restrictive laws remain the principal obstacle to freedom of opinion and expression. Magazines, books and newspapers continue to be confiscated or banned. Television and radio stations are closed. IHD reports that 133 people are currently in prison for crimes of opinion.

5. According to IHD reports, 298 journalists were arrested in 1997. During the first five months of 1998, a total of 130 publications were confiscated and/or banned. Those who expressed their opinions recommending a democratic, political and peaceful solution to the Kurdish question have been harassed and sentenced to prison terms.

Violation of the right to life

6. Deaths in custody, disappearances, use of torture and extrajudicial killings are all violations of the right to life. They are systematic and widespread. The security forces enjoy a large measure of impunity in regard to arbitrary use of their weapons. Disappearances in custody are closely linked to the state of war prevailing in south-eastern Turkey. Among these cases, 80 per cent occurred in the provinces under a state of emergency. In 1997, according to IHD reports, 66 people disappeared, 109 were killed by unidentified assailants and 114 were executed extrajudicially. IHD's monthly reports indicate that, during the first five months of 1998, 13 people were reported missing, 72 others were killed by unidentified assailants and 44 were executed extrajudicially. Several dozen people were killed or injured by mines planted in civilian residential areas.

Torture

7. Although Turkey has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, torture is systematic and widespread. IHD and the Human Rights Foundation, the two FIDH member organizations in Turkey, have identified 37 methods of torture used mainly during police custody. Following a March 1997 amendment, the length of police custody was reduced from 15 to 7 days, and it has also been reduced from 30 to 10 days in the south-eastern provinces under a state of emergency. However, according to IHD reports, acts of torture are continuing to be reported during police custody, despite its shorter duration. IHD has counted 366 persons subjected to torture in 1997. For the first months of 1998, 217 similar cases have been reported.

8. The trial of the police officers accused of killing journalist Goktepe, who died after being tortured by the police, broke new ground. However, given the heavy sentences imposed for crimes of opinion, the sentence of seven and a half years' imprisonment received by the police officers found guilty is likely not to have the exemplary effect desired. Trials of police officers identified as perpetrators of acts of torture are still too rare to serve as a real deterrent.

Protection of human rights defenders

9. In Turkey, these defenders are frequently the first victims of human rights violations. They are often detained, convicted and imprisoned. It was only shortly after the adoption by the Commission on Human Rights of the Declaration on the protection of human rights defenders that Mr. Akin Birdal was gravely wounded by six bullets in an assassination attempt on 12 May 1998.

This event, which caused consternation in the international community, attests to the pressing need for real protection of human rights defenders, who are very exposed in Turkey.

Freedom of association and persecution of human rights organizations and IHD

10. When Turkey ratified the conventions of the International Labour Organization, its domestic laws were not brought into conformity with those conventions relating to workers' rights and fundamental freedoms. Some parties, associations and trade unions have been closed, and freedom of association and the freedom to form and join trade unions are regularly breached. Human rights organizations face the same reprisals. Legal proceedings are being taken against the human rights organizations to force their closure and to ban their publications. The IHD sections in Diyarbakir, Izmir, Mardin, Sanliurfa, Balikesir, Malatya and Konya were closed in May and August 1997 by the governors of those regions. Five branches have been reopened as a result of IHD representations to the authorities. The IHD branch in Kirsehir was closed for three months by order of the Kirsehir Governor on 11 June 1998.

The Kurdish question

11. There are some 15 million Kurds currently living in Turkey. Eastern and south-eastern Turkey are under martial law and a state of emergency has been in force in this region since 1987. A state of emergency still applies in seven provinces.

12. Civilians are targeted during the fighting, and houses and forests are burned. Since 1984, when the hostilities between the Kurdistan Workers Party (PKK) and the Turkish army began, about 3 million Kurds have been forcibly displaced. The International Committee of the Red Cross is not allowed into the region to monitor the situation. Seven Kurdish political parties have been banned. The president and other officials of the People's Democracy Party (HADEP) were detained for 10 months and sentenced to heavy prison terms.

Prisons

13. The inmates of Turkey's 562 prisons are still at times subjected to difficult conditions in some regions. The inmates, and especially the political prisoners, regularly go on hunger strikes to protest against their prison conditions. On 24 September 1996, security forces attacked the inmates of Diyarbakir prison; 10 prisoners were brutally killed and 26 were severely injured with iron bars and rifle butts. These events led to murder charges being brought against 60 security officers. The Turkish Grand National Assembly decided to set up a commission to investigate the massacre. The commission has confirmed that 10 prisoners died from these brutal actions, which were described as real acts of torture in view of their seriousness.

UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1998/NGO/16
20 July 1998

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Fiftieth session
Item 9 of the provisional agenda

THE ADMINISTRATION OF JUSTICE AND HUMAN RIGHTS

Written statement submitted by the International Federation of Human Rights Leagues, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 July 1998]

1. The International Federation of Human Rights Leagues (IFHR) considers questions relating to the administration of justice and human rights, which fall under item 9 of the provisional agenda of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, to be of vital importance.

2. Following a mission to Casamance from 3 to 12 February 1998, IFHR observed that despite the Senegalese Government's expressed commitment to the promotion and protection of human rights, instances of human rights violations are regularly reported in Senegal, particularly as regards the administration of justice.

3. The situation is particularly disturbing in Casamance, where the Mouvement des forces démocratiques de la Casamance (MFDC) has been engaged in conflict with the Senegalese army since 1990. Several problems have prevented a solution of the underlying situation, of which IFHR has identified three:

- The problem of land: the nationalization of land in 1960 and the recent migration of northern Senegalese who have received plots of land have bred a feeling of dispossession among the farmers of Casamance;

- The problem of regionalization: despite an expressed commitment to greater regional autonomy, the situation is quite different. An effective regionalization plan would eliminate one of the grounds for the rebellion;

- The problem of the army: many civilian authorities are former military leaders (the Minister of the Interior, for example, is a former Chief of Staff). This situation strengthens the legal protection afforded to the army.

4. The conflict has led to a human rights crisis in a number of areas. IFHR has focused its attention on violations committed against the civilian population, on the problem of refugees and displaced persons, and on judicial issues.

Violations committed against the population

5. Violations that affect the population are committed by both parties to the conflict (army and rebels). However, the MFDC leadership has been more open in claiming responsibility for such acts than have the government authorities. The latter in fact appear to deny the existence of such acts, citing a lack of evidence. However, instances of extrajudicial killings, arbitrary arrests, torture and disappearances were brought to the attention of the IFHR mission.

6. Early in August 1997 at least seven persons were arbitrarily arrested. Three other persons were abducted at the end of the same month; their fate is still unknown. Several cases of torture (at the department of Bignona

military camp and at the School for Agricultural Technology) were reported to IFHR. In addition, during the night of 4 September 1997 near Ziguinchor, the Senegalese army fired randomly in all directions, causing much damage to the villagers' property.

7. These acts committed by the Senegalese army or police contravene various treaties ratified by Senegal: article 9 of the International Covenant on Civil and Political Rights (ratified by Senegal in 1978) condemns arbitrary detention. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ratified by Senegal in 1987) maintains that all acts of torture are offences under the law. The repeated violation of these instruments was noted earlier by the Committee against Torture at its 246th and 247th meetings, held on 1 May 1996. Disturbed by the numerous cases of torture brought to its attention, the Committee recalled that "a democracy must, whatever the circumstances, ensure that only legitimate means are used to protect the security of the State, peace and stability" (A/51/44, para. 111). The Human Rights Committee, following its meetings on 21 and 22 October 1997, recommended that "measures be taken to ensure the full observance of articles 6 and 7 by military personnel and police, and the effective implementation in practice of article 7 of the Covenant vis-à-vis people suspected of being MFDC sympathizers" (CCPR/C/79/Add.82, para. 11).

8. IFHR notes that, despite the recent recommendations of the Committee against Torture and the Human Rights Committee, further acts have been committed which negatively affect the civilian population.

9. The appearance of anti-personnel mines during the summer of 1997 is another source of concern. The IFHR mission noted that although the mines were placed by both the Senegalese army and members of MFDC, the rebel movement acknowledges its guilt in this respect, while the Senegalese Government denies all responsibility. The Minister of Justice has informed IFHR that Senegal intends to ratify the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction.

The situation of civilian refugees and displaced persons

10. There are many residents of Casamance who, fleeing the fighting, have taken refuge in the Gambia (an estimated 4,000 persons) or in Guinea-Bissau (between 15,000 and 17,000). Their situation is dire: the Senegalese army is taking punitive action against those suspected of sympathizing with the rebels. These people are also being harassed by members of MFDC, who demand that they join the movement. The civilian population is thus held hostage, a situation which IFHR strongly condemns. The Gambia, Guinea-Bissau and Senegal have jointly decided to move the refugee camps, but the parties have yet to agree on an appropriate site.

The status of justice

11. The judicial situation is disturbing in several respects. The IFHR mission was particularly interested in the alleged judicial proceedings against the army. The mission concluded from its observations that judicial proceedings are structured in such a way that it is virtually impossible to

bring a complaint against the army. If a victim brings a complaint against one or more soldiers, the court can rule it admissible, but it cannot initiate proceedings until the competent military authorities have given their consent which they seldom do. And, the prosecutor in Ziguinchor, who has the authority to rule on the appropriateness of initiating proceedings, has never ordered a preliminary investigation.

12. Moreover, certain rules of procedure derogate from ordinary law, such as the requirement that the examining magristrate must issue a detention warrant if the court so requires, or the fact that a request to go forward can be ruled inadmissibly if the prosecutor opposes it. There have been reports of proceedings based solely on preliminary investigations in which the defence was not allowed to confront the accusers. Taking note of this situation, the Committee against Torture, following its meetings on 1 May 1996, recommended to Senegal that "any person accused of an offence under criminal law should be subject to an objective investigation ..." (A/51/44, para. 116).

13. The Federation's attention was also drawn to the problem of detained persons. On 10 February 1998, some 79 persons who had been detained on suspicion of belonging to MFDC were being held in the Ziguinchor prison, with an equal number held in the Dakar prison. None of these individuals had been sentenced, and the one who had been there longest had been held since March 1995. IFHR wishes to point out that the situation of detainees suspected of attempting to undermine the State is a recurring problem in Senegal. The Committee against Torture recommended to Senegal that, in the event that an individual's responsibility for an offence under criminal law was established, that person should be "handed over to the competent authority as soon as possible" (ibid.).

14. The Human Rights Committee noted in its concluding observations that "the criteria enabling a judge to hold an arrested person in pre-trial detention are not defined under the law". The Committee recommended that the State party should "set out in its Code of Criminal Procedure criteria establishing grounds on which persons awaiting trial may be held in detention which are in conformity with article 9 (3) of the Covenant". Furthermore, the Committee recommended "the repeal of provisions dealing with special detention in cases of offences against the security of the State, or the provision of further legal safeguards in such cases" (CCPR/C/79/Add.82, para. 14). It is clear to IFHR that, given the situation in Casamance, those recommendations have not been effectively followed up.

15. The IFHR mission also found that the situation of persons held in prison was still disturbing. The mission visited the prison in Ziguinchor, where 303 persons, including 23 women, were being held even though budgetary provisions had been made for only 225 prisoners. IFHR would like to recall here the recommendations made by the Human Rights Committee in its conclusions of 19 November 1997: "The Committee recommends that measures be taken to reduce overcrowding and to upgrade prison facilities as quickly as possible" (ibid., para. 15).

16. In the light of the issues raised here, IFHR:

(a) Invites the Senegalese Government to determine who is actually responsible for the violations perpetrated against the civilian population by the armed forces operating in Casamance and to institute any judicial proceedings that may be warranted;

(b) Invites the judicial authorities scrupulously to comply with the procedures in force, which are the only guarantees of individual freedoms;

(c) Invites the Senegalese Government to strengthen the independence of the judiciary and to reform the procedure for dealing with attempts to undermine State security with a view to guaranteeing citizens the same rights they enjoy with regard to crimes and offences under ordinary law;

(d) Invites the Government to ratify the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction;

(e) Invites the Government to create conditions that are genuinely conducive to a dialogue with a view to restoring peace in Casamance;

(f) Invites the MFDC leadership to refrain from using anti-personnel mines and to halt all murderous activity directed against the civilian population.

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Distr.
GENERAL

E/CN.4/Sub.2/1998/NGO/17
20 July 1998

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Fiftieth session
Item 12 (c) (ii) of the provisional agenda

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN OR MAY BE CONCERNED:

REVIEW OF ISSUES NOT PREVIOUSLY THE SUBJECT OF STUDIES BUT WHICH THE SUB-COMMISSION HAD DECIDED TO EXAMINE:

TERRORISM AND HUMAN RIGHTS

Written statement submitted by North-South XXI, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 July 1998]

1. The major Western media are continually reminding us of terrorist acts for which responsibility is borne by groups coming from the States of the South; they give maximum coverage to individual acts committed in a particular context (for example, in the territories occupied by Israel).

2. On the other hand, silence surrounds the global terrorism which the nuclear Powers exercise over all peoples. The Treaty on the Non-Proliferation of Nuclear Weapons merely ensures the preservation of a nuclear oligarchy, placing under surveillance States that wish to use nuclear power for their economic development and are suspected of wanting to acquire nuclear weapons, although in international law there is no general provision making nuclear disarmament or non-armament mandatory.

3. The recent nuclear tests in Asia show that nuclear terrorism can cease only through the general abolition of nuclear weapons. The Sub-Commission on Prevention of Discrimination and Protection of Minorities has good reason to denounce the nuclear threat, taking its stand on the opinion delivered on the subject by the International Court of Justice; to renew the call for the preparation and signature of a convention on nuclear weapons, banning and eliminating all nuclear weapons according to a precise timetable; and to recommend the redistribution of the military appropriations concerned so as to contribute to the realization of sustainable development and the eradication of poverty, which were the official goals of the 1995 Copenhagen Declaration on Social Development.